



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/549,305

11/10/2005

Raizo Kuge

29302.0049

3583

27890

7590

10/03/2008

STEPTOE & JOHNSON LLP  
1330 CONNECTICUT AVENUE, N.W.  
WASHINGTON, DC 20036

EXAMINER

BENVENUTI II, MATTHEW GEORGE

ART UNIT

PAPER NUMBER

4159

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/549,305	KUGE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Matt Benvenuti	4159	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 September 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>IDS (9/16/05, 8/29/07)</u> .                                  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

- References 55, Figure 8
- Reference 56, Figure 8
- References 85, Figure 11
- Reference 86, Figures 11 and 12
- Reference 98, Figure 12
- Reference 105, Figures 14 and 15
- Reference 147, Figures 19B and C

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- Page 15, Line 10: male portion 11 is not shown in Figure 5
- Page 15, Line 13: female portion 12 is not shown in Figure 5
- Page 18, Line 7-8: fastener 10 is not shown in Figure 6
- Page 19, Line 10: the bottom portion 4 is not shown in Figure 6
- Male portion 91 and female portion 92 are not shown in the drawings

3. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with

Art Unit: 4159

37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

4. The abstract of the disclosure is objected to because:

- The reference numbers should be in parentheses
- Line 4: should be: "The fastener bag..."

Correction is required. See MPEP § 608.01(b).

5. The disclosure is objected to because of the following informalities:

- In the List of Figures:
  - Figure 19 should be Figures 19A-C
  - Figure 20 should be Figures 20A-B
  - Figure 21 references the packaging bag of Figure 20, need to specify which 20
  - Figure 24 should be Figures 24A-B
- Page 9, Line 8: "...and female 1 portion..." should be "... and female portion..."

Art Unit: 4159

- Page 12, Lines 12: "... the side end portions..." should include a reference number
- Page 21, Lines 18-26: The phrase "...to the one of the flat surface...", in lines 20 and 24 specifically, make the discussion of the attachment of the male and female portion of the fastener confusing.
- Page 22, Line 11: male side portion is 61
- Page 22, Line 11: female side portion is 62
- Page 22, Line 20 the flat surface portion is 50
- Page 25, Line 22: the side surface portion is 102 not 113
- Page 26, Lines 1-3 is confusing
- Page 31, Line 5: the flat surface portions are 171, 171
- Page 31, Line 6-7: a fused portion is 172
- Page 32, Line 1: the bottom portion is 177
- Page 32, Line 1: the packaging bag 170 needs to be further defined as A or B
- Page 32, Line 11: end edges are 183 and 183

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

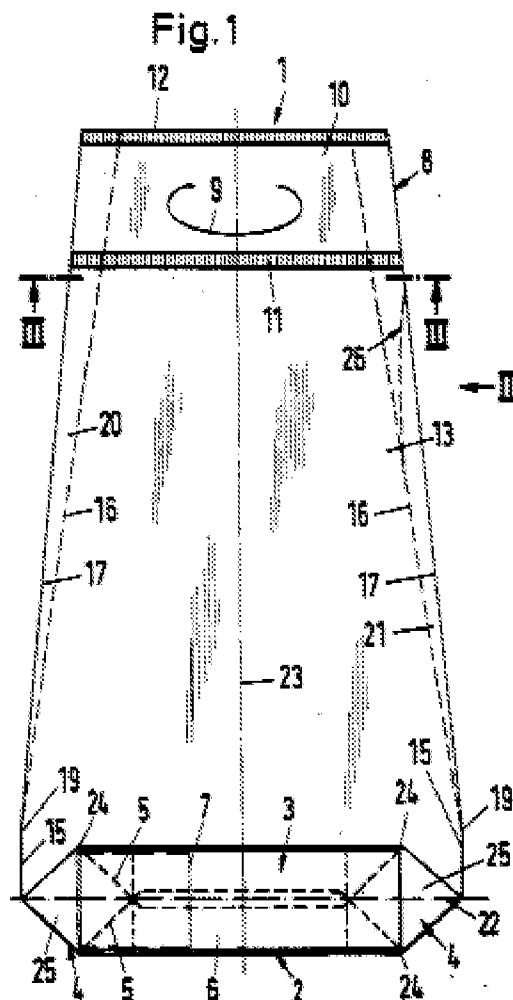
Art Unit: 4159

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,104,235 (Bronstrup et al) in view of US 5,902,047 (Yeager).



10. In re Claim 1, Bronstrup et al (Figure 1 shown above) teaches a fastener bag comprising:

**A pair of opposed flat surface portions (13, 14) and a pair of side surface portions (15, 16) disposed between both side edges of the flat surface portions (13, 14), the side surface portions (15,16) being folded inward (20, 21) so as to provide a gusset-type bag (1),**





Art Unit: 4159

et al, References 15,16: both sides contain an open spout, and it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the spout opening with an opening and fastener as taught by Yeager on the side of the bag, which is discussed further below), **and a cut-tape (48) for separating the one of the flat surface portions or the one of the side surface portions (Column 6, Lines 63-65) to the male portion side (30) and the female portion side (28) is provided between the projected thread and the engaging groove (Figure 3)**

12. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the bag structure as taught by Bronstrup et al with the opening and fastener as taught by Yeager since it was known in the art to provide bags with openings with recloseable fasteners instead of pour spouts. Providing a reclosable fastener as taught by Yeager would have allowed one of ordinary skill in the art to place the opening to the bag on any one of the four walls, and the opening/fastener taught by Yeager can be used to provide a large area of access into the bag then the spout used in Bronstrup et al.

13. In re Claim 2, Bronstrup et al/Yeager further teaches a fastener bag wherein a pair of said flat surface portions and a pair of said side surface portions constitute a tubular bag body (Bronstrup et al, Figure 1: is tubular in shape, having the shape shown due to the side folds increasing in depth at the top of the bag) having both ends opened as end openings (Both ends are open prior to sealing and forming the completed bag

Art Unit: 4159

structure), one of the end openings (2) of the bag body is closed by a bottom surface portion (3), and the bottom surface portion provides a flat shape (Figure 1).

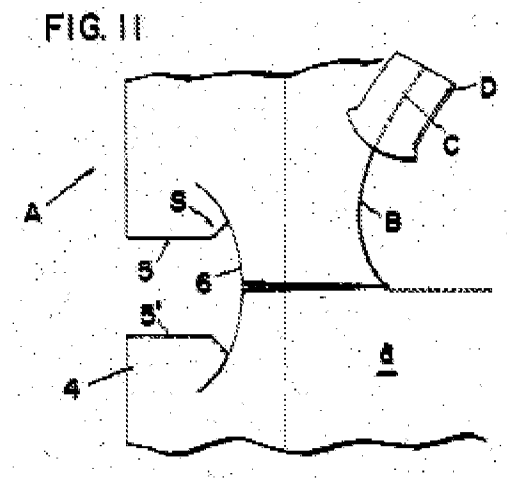
14. In re Claim 3, Bronstrup et al/Yeager further teaches a fastener bag wherein said fastener and said cut-tape are disposed so as to extend in a horizontal direction of the fastener bag (Yeager, Figure 1), the flat surface portion or side surface portion on which the cut-tape is provided is formed with a tab portion for opening the bag at a position corresponding to at least one end in an axial direction of the cut-tape by forming cut-in portions with the end of the cut-tape being the center thereof so as to separate a portion of the cut-tape from the flat surface portion or side surface portion (Column 6-7, Lines 65-1).

15. In re Claim 4 and 5, Bronstrup et al/Yeager teach the claimed invention except for a fastener bag wherein said fastener and said cut-tape are disposed so as to extend in an oblique direction (Claim 4) or a vertical direction (Claim 5). For a discussion of the tear strip with a tab portion see Claim 3 above. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the fastener in an oblique or vertical direction, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Please note that in the instant application, page 23, lines 15-17, and page 25, lines 7-10, applicant has not disclosed any criticality for the claimed limitations.

Art Unit: 4159

16. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bronstrup et al/Yeager as applied to claim 1 above, and further in view of US 4,650,079 (Tani).

17. In re Claim 6, Bronstrup et al/Yeager teaches the claimed invention except for a fastener bag wherein said cut-tape is disposed so that the axial end of the cut-tape reaches the fused portion, and a non-fused portion is formed to the fused portion at a position corresponding to the end of the cut-tape so that a boundary portion between the fused portion and the non-fused portion surround the tab portion.



18. Tani (Figure 11 shown above) teaches a tear strip that extends the length of the bag side and includes a non-fused portion formed to the fused portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to extend both the fastener and the tear strip across the entire side portion of the bag, to create a bigger opening and allowing easier access to the bag contents, such that boundary portion between the fused portion and the non-fused portion surround the tab portion.

Art Unit: 4159

19. In re Claim 7, Bronstrup/Yeager/Tani teach the claimed invention except for a fastener bag wherein said bag body and said bottom surface portion have a boundary portion therebetween, to which fused portions formed by bonding the bag body and the bottom surface portion are formed, said cut-tape is disposed so that the axial end of the cut-tape reaches the fused portion, and a non-fused portion is formed to the fused portion at a position corresponding to the end of the cut-tape so that a boundary portion between the fused portion and the non-fused portion surround the tab portion. It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the fastener in an oblique or vertical direction, since it has been held that rearranging parts of an invention involves only routine skill in the art. In re Japikse, 86 USPQ 70. Please note that in the instant application, page 25, lines 16-25, applicant has not disclosed any criticality for the claimed limitations.

### ***Conclusion***

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US 4,629,071 (Tani) teaches a tear string heat-fused to the inside of a bag wall with a pull tab attached to the string. US 5,672,009 (Malin) teaches a recloseable plastic bag with interlocking fastener and a tear strip that once removed allows access to the fastener and the bag opening. US 6,224,262 (Hogan et al) teaches a recloseable bag with interlocking fastener attached to the same panel and a perforation that once broken allows access to the fastener and the bag opening. US 6,334,710 (Kuge et al) teaches a self standing bag with a tubular main body and a

Art Unit: 4159

bottom forming sheet. US 6,481,183 (Schmidt) teaches a stand up bag with a recloseable seal located in various orientations on the bag. US 6,659,643 (Plourde et al) teaches a recloseable fastener assembly for a recloseable plastic bag in which both the male and female portions of the fastener are attached to the same panel of the bag. US 2004/0114838 (McGregor) teaches a recloseable package with the closure device attached longitudinally in a vertical direction.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matt Benvenuti whose telephone number is (571)270-5704. The examiner can normally be reached on Monday - Friday: 8am-5pm.

22. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on 571-272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

23. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MB

/Quang T Van/  
Primary Examiner, Art Unit 3742

Application/Control Number: 10/549,305  
Art Unit: 4159

Page 13